

Senate Bill No. 509

Passed the Senate September 2, 2009

Secretary of the Senate

Passed the Assembly August 27, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1270, 14035, 16197, 17584, 17592.5, 24216.5, 37254, 44259, 44961, 47660, 51452, 52052, 52127, and 54026 of, and to repeal Sections 41857 and 47623 of, the Education Code, and to amend Section 53892.1 of the Government Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, Committee on Education. Education.

(1) Existing law requires the State Allocation Board to apportion certain funds from the State School Deferred Maintenance Fund to school districts, and specifies that those funds be apportioned after December 1 of each fiscal year.

This bill would delete the provision specifying that those funds be apportioned after December 1.

(2) Existing law authorizes the governing board of a school district to provide for the transportation of pupils to and from school by purchasing or renting vehicles, contracting and paying for the transportation of pupils to and from school by a common carrier or a municipally owned transit system, or contracting with and paying responsible private parties for the transportation. In each fiscal year, a school district or county office of education is entitled to receive the same transportation allowance that it received in the prior fiscal year, as calculated by the Superintendent of Public Instruction based on the approved costs of home-to-school transportation, as defined, of the district or county office.

This bill would repeal a provision specifying that a charter school is eligible for funding pursuant to those provisions.

(3) Under existing law, an elementary school that has been operated by the University of California at the Los Angeles campus prior to January 1, 1994, may apply to become a charter school. Existing law specifies, if an elementary school petitions either the governing board of the local school district or the State Board of Education to become a charter school, that the school shall receive state apportionments equal to the statewide average revenue limit for elementary schools plus other specified funding.

This bill would repeal the provisions requiring the charter school to receive those funds.

(4) Existing law requires the Superintendent, with approval of the state board, to develop the Academic Performance Index (API) consisting of a variety of indicators currently reported to the State Department of Education to track the achievement of schools and their pupils. Statutory provisions establish a specific calculation for graduation rates to be included within the API and require the Superintendent to provide an annual report to the Legislature on graduation and dropout rates in California. Existing law requires the API to be used for specified purposes, including, but not limited to, ranking all public schools in the state for purposes of the High Achieving/Improving Schools Program.

This bill would include 5- and 6-year graduation rates in the indicators currently reported to the department for purposes of calculating a school's API. The bill would specify a formula to calculate these rates, and would provide that schools receive partial credit in their API scores for graduating pupils in 5 and 6 years, except that schools would be granted full credit for graduating in 5 or 6 years a pupil with disabilities who graduates in accordance with his or her individualized education program.

(5) Existing law authorizes the allocation of economic impact aid funding to support educationally disadvantaged youth programs and bilingual education, and requires the Superintendent to determine an economic impact aid-eligible pupil count and calculate an amount of economic impact aid for each school district. For charter schools that are funded through the block grant funding model, as specified, the department is required to use counts as of October of the prior year of pupils 5 to 17 years of age, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as defined, without revision.

This bill would delete the provision specifying that it shall be without revision.

(6) Existing law requires the Superintendent to furnish the Controller with certain data no later than 6 months following the close of each fiscal year.

This bill would instead require the Superintendent to make certain data available on an as-needed basis.

(7) The bill also would update and correct various statutory cross references.

The people of the State of California do enact as follows:

SECTION 1. Section 1270 of the Education Code is amended to read:

1270. The county superintendent of schools of any county may use schoolbuses to transport pupils attending schools or classes operated by the county superintendent pursuant to Article 15 (commencing with Section 1920) of Chapter 6 of this part, including adults attending special classes for adults designed to serve the educational needs of handicapped adults operated pursuant to Section 52570, and teachers or other employees employed by the county superintendent of schools, to and from school athletic contests or other school activities, or to and from fairs or expositions held in the state or in any adjoining state and in which the pupils participate actively or as spectators. The transportation may be provided on any day or days throughout the school year.

SEC. 2. Section 14035 of the Education Code is amended to read:

14035. (a) The county school service fund contingency account is hereby established in the General Fund. In each fiscal year the amount credited to the account shall be one hundred thousand dollars (\$100,000). Notwithstanding any provision of Section 14002 to the contrary, the amount to be credited to the county school service fund contingency account each fiscal year shall not be transferred from the General Fund as required or authorized to be transferred by Section 14002 but the amounts required or authorized to be transferred by Section 14002 shall be reduced by the amount to be credited to the contingency account and shall remain in the General Fund to the credit of the contingency account.

(b) The money in the General Fund to the credit of the contingency account shall be transferred by the Controller to the State School Fund in amounts as are certified from time to time by the Superintendent of Public Instruction to be necessary to meet actual costs to reimburse county superintendents of schools for expenses incurred in providing emergency education to pupils and

making financial grants to school districts pursuant to Section 1602, to reimburse county superintendents of schools for the actual and necessary travel expenses incurred in connection with cooperative county publication projects by the county superintendent of schools or members of his staff, and to reimburse county superintendents of schools for expenses incurred in making emergency financial grants to school districts.

(c) The amount credited, pursuant to this section, in each fiscal year to the county school service fund contingency account in the General Fund shall be reduced by the amount of the balance remaining to the account on June 30 of the preceding fiscal year and an equal reduction shall be made in the amount of the reduction in the amounts required or authorized to be transferred under Section 14002 in accordance with this section.

SEC. 3. Section 16197 of the Education Code is amended to read:

16197. (a) Notwithstanding any other provisions of this article to the contrary, apportionments for the purchase of mobile classrooms for the education of physically handicapped pupils enrolled in integrated programs, as set forth in Part 30 (commencing with Section 56000), and for the education and therapy of speech-handicapped pupils may, subject to the approval of the department, be made to any school district not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) for that purpose.

(b) The State Department of Education may approve applications in those situations where mobile classrooms will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Chapter 7.2 (commencing with Section 56836) of Part 30. Mobile classrooms shall be used pursuant to an agreement authorized by Section 41308.

(c) Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in annual amounts and at an interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which

50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

(d) The county board of supervisors of the county whose superintendent of schools uses mobile classrooms during any fiscal year shall at the time or times within the fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the purchase of mobile classrooms, an amount equal to 100 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

(e) The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars (\$160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility including the district having the obligation to repay, or through a combination of these.

(f) The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he or she approves the application.

(g) The department shall prepare specifications or regulations for the construction of mobile classrooms to provide for a useful life of no less than 20 years.

(h) The use of mobile classrooms shall meet specifications described by the department as they relate to the needs of the physically handicapped pupils being served, as set forth in Chapter 7.2 (commencing with Section 56836) of Part 30.

SEC. 4. Section 17584 of the Education Code is amended to read:

17584. (a) Each fiscal year, the State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar (\$1) for each one dollar (\$1) of local funds up to a maximum of $\frac{1}{2}$ percent of the

district's second prior fiscal year revenue limit average daily attendance multiplied by the average, per unit of second prior fiscal year average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4, for the second prior fiscal year, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local education agencies, to the extent of funds available.

(b) In order to be eligible to receive state aid pursuant to subdivision (a), no district shall be required to budget from local district funds an amount greater than $\frac{1}{2}$ percent of the district's second prior fiscal year revenue limit average daily attendance, multiplied by the average, per unit of second prior fiscal year average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4 for the second prior fiscal year, exclusive of any amounts expended for capital outlay, debt service, or revenues that are passed through to other local educational agencies.

SEC. 5. Section 17592.5 of the Education Code is amended to read:

17592.5. The Joint Powers Southern California Regional Occupational Center and the Metropolitan Education District, a joint powers authority, shall be deemed to be school districts for purposes of Sections 17582 to 17592, inclusive, and for the purposes of Section 17584.

SEC. 6. Section 24216.5 of the Education Code is amended to read:

24216.5. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2007.

(2) The member retired for service is employed by a school district to provide any of the following:

(A) Direct classroom instruction to pupils enrolled in kindergarten or any grades 1 to 12, inclusive.

(B) Support and assessment for new teachers through the Beginning Teacher Support and Assessment program authorized by Section 44279.1.

(C) Support to individuals completing student teaching assignments.

(D) Support to individuals participating in the following programs:

(i) Alternative certification programs authorized pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25 of Division 3 of Title 2.

(ii) School Paraprofessional Teacher Training Program established pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25 of Division 3 of Title 2.

(E) Instruction and pupil services provided to pupils enrolled in special education programs authorized pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2.

(F) Instruction to pupils enrolled in English language learner programs authorized pursuant to Chapter 3 (commencing with Section 300), Chapter 4 (commencing with Section 400), and Chapter 6 (commencing with Section 430) of Part 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that

compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) This section shall remain in effect only until June 30, 2010, and shall be repealed as of January 1, 2011, unless a later enacted statute deletes or extends that date.

SEC. 7. Section 37254 of the Education Code is amended to read:

37254. (a) For purposes of this section, “eligible pupil” means a pupil who has not met the high school exit examination requirement for high school graduation pursuant to Chapter 9 (commencing with Section 60850) of Part 33 of Division 4, and who has failed one or both parts of that examination by the end of grade 12.

(b) (1) From the funds appropriated for purposes of this section in the annual Budget Act or other statute, the Superintendent shall determine a per pupil rate of funding by dividing the total amount of funds appropriated for purposes of this section by the number of eligible pupils in grade 12 as reported by school districts in accordance with paragraph (7) of subdivision (d). The Superintendent then shall apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 12 pupils reported pursuant to paragraph (7) of subdivision (d).

(2) If funds appropriated for purposes of paragraph (1) are not exhausted after the apportionment pursuant to paragraph (1) is made, the Superintendent shall determine a per pupil rate of funding for eligible pupils in grade 11 by dividing the total amount of funds appropriated for purposes of this section remaining after the apportionment pursuant to paragraph (1) has been made by the total number of eligible pupils in grade 11 reported by school districts in accordance with paragraph (7) of subdivision (d). The Superintendent shall apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 11 pupils reported pursuant to paragraph (7) of subdivision (d).

(3) The maximum per pupil rate of funding shall not exceed five hundred dollars (\$500) and shall be increased annually by the percentage determined in paragraph (2) of subdivision (b) of Section 42238.1

(c) (1) The funds described in subdivision (b) shall be used to provide intensive instruction and services designed to help eligible pupils pass the high school exit examination.

(2) Intensive instruction and services may be provided during the regular schoolday provided that they do not supplant the instruction of the pupil in the core curriculum areas as defined in paragraph (5) of subdivision (a) of Section 60603, or physical education instruction. Eligible pupils may receive intensive instruction and services on Saturdays, evenings, or at a time and location deemed appropriate by the school district in order to meet the needs of these pupils.

(3) Intensive instruction and services may include, but are not limited to, all of the following:

(A) Individual or small group instruction.

(B) The hiring of additional teachers.

(C) Purchasing, scoring, and reviewing diagnostic assessments.

(D) Counseling.

(E) Designing instruction to meet specific needs of eligible pupils.

(F) Appropriate teacher training to meet the needs of eligible pupils.

(G) Instruction in English language arts or mathematics, or both, that eligible pupils need to pass those parts of the high school exit examination not yet passed. A school district may employ different intensive instruction and services strategies more aligned to the needs and circumstances of pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 as compared to grade 12 pupils with similar needs in a comprehensive high school of the district.

(H) The provision of instruction and services by a public or nonpublic entity, as determined by the local educational agency.

(d) As a condition of receiving funds pursuant to subdivision (c), the school district shall accomplish all of the following:

(1) Ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need.

(2) Ensure that each pupil receives intensive instruction and services based on the results of the diagnostic assessment, and prior results on the high school exit examination.

(3) Ensure that all pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 are notified in writing at the last known address before the end of each school term of the availability of the services in sufficient time to register for or avail themselves of those services each term for two consecutive academic years thereafter and are notified of the right of a pupil to file a complaint regarding those services as set forth in Section 35186. In addition to notifying the pupil, or his or her parent or legal guardian if the pupil is under the age of 18, in writing, the notice shall be posted in the school office and district office and on the Internet Web site of the school district, if applicable. The notice shall comply with the translation requirements of Section 48985.

(4) Ensure that all pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 have the opportunity to receive intensive instruction and services as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, as specified in paragraph (2), for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first. A school district shall employ strategies for intensive instruction and services that are most likely to result in these pupils passing the parts of the high school exit examination that they have not yet passed.

(5) Ensure that all English learners who have not passed one or both parts of the high school exit examination by the end of grade 12 have the opportunity to receive intensive instruction and services provided under paragraph (3) of subdivision (c) that also shall include services to improve English proficiency as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, as specified in paragraph (2), to pass those parts of the high school exit examination not yet passed, for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first. A school district shall employ strategies for intensive instruction and services that are most likely

to result in these pupils passing the parts of the high school exit examination that they have not yet passed.

(6) Demonstrate that funds will be used to supplement and not supplant existing services.

(7) Provide to the Superintendent, in a manner and by a date certain determined by the Superintendent, the number of eligible pupils at each high school in the school district.

(8) Submit an annual report to the Superintendent and the appropriate county superintendent of schools in a manner determined by the Superintendent that describes the manner and frequency in which eligible pupils were notified of the intensive instruction and services provided, the number of pupils served for each type of service provided, and the number of pupils in the school district who successfully pass the high school exit examination by each type of service provided.

SEC. 8. Section 41857 of the Education Code is repealed.

SEC. 9. Section 44259 of the Education Code, as amended by Section 17 of Chapter 2 of the 4th Extraordinary Session of the Statutes of 2009, is amended to read:

44259. (a) Except as provided in subparagraphs (A) and (C) of paragraph (3) of subdivision (b), each program of professional preparation for multiple or single subject teaching credentials shall not include more than one year of, or the equivalent of one-fifth of a five-year program in, professional preparation.

(b) The minimum requirements for the preliminary multiple or single subject teaching credential are all of the following:

(1) A baccalaureate degree or higher degree from a regionally accredited institution of postsecondary education. Except as provided in subdivision (c) of Section 44227, the baccalaureate degree shall not be in professional education. The commission shall encourage accredited institutions to offer undergraduate minors in education and special education to students who intend to become teachers.

(2) Passage of the state basic skills examination that is developed and administered by the commission pursuant to Section 44252.5.

(3) Satisfactory completion of a program of professional preparation that has been accredited by the committee on accreditation on the basis of standards of program quality and effectiveness that have been adopted by the commission. In accordance with the commission's assessment and performance

standards, each program shall include a teaching performance assessment as set forth in Section 44320.2 which is aligned with the California Standards for the Teaching Profession. The commission shall ensure that each candidate recommended for a credential or certificate has demonstrated satisfactory ability to assist pupils to meet or exceed state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605. Programs that meet this requirement for professional preparation shall include any of the following:

(A) Integrated programs of subject matter preparation and professional preparation pursuant to subdivision (a) of Section 44259.1.

(B) Postbaccalaureate programs of professional preparation, pursuant to subdivision (b) of Section 44259.1.

(C) Internship programs of professional preparation, pursuant to Section 44321, Article 7.5 (commencing with Section 44325), Article 11 (commencing with Section 44380), and Article 3 (commencing with Section 44450) of Chapter 3.

(4) Study of alternative methods of developing English language skills, including the study of reading as described in subparagraphs (A) and (B), among all pupils, including those for whom English is a second language, in accordance with the commission's standards of program quality and effectiveness. The study of reading shall meet the following requirements:

(A) Commencing January 1, 1997, satisfactory completion of comprehensive reading instruction that is research-based and includes all of the following:

(i) The study of organized, systematic, explicit skills including phonemic awareness, direct, systematic, explicit phonics, and decoding skills.

(ii) A strong literature, language, and comprehension component with a balance of oral and written language.

(iii) Ongoing diagnostic techniques that inform teaching and assessment.

(iv) Early intervention techniques.

(v) Guided practice in a clinical setting.

(B) For the purposes of this section, "direct, systematic, explicit phonics" means phonemic awareness, spelling patterns, the direct instruction of sound/symbol codes and practice in connected text

and the relationship of direct, systematic, explicit phonics to the components set forth in clauses (i) to (v), inclusive.

A program for the multiple subjects credential also shall include the study of integrated methods of teaching language arts.

(5) Completion of a subject matter program that has been approved by the commission on the basis of standards of program quality and effectiveness pursuant to Article 6 (commencing with Section 44310) or passage of a subject matter examination pursuant to Article 5 (commencing with Section 44280). The commission shall ensure that subject matter standards and examinations are aligned with the state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605.

(6) Demonstration of a knowledge of the principles and provisions of the Constitution of the United States pursuant to Section 44335.

(7) Commencing January 1, 2000, demonstration, in accordance with the commission's standards of program quality and effectiveness, of basic competency in the use of computers in the classroom as determined by one of the following:

(A) Successful completion of a commission-approved program or course.

(B) Successful passage of an assessment that is developed, approved, and administered by the commission.

(c) The minimum requirements for the clear multiple or single subject teaching credential shall include all of the following requirements:

(1) Possession of a valid preliminary teaching credential, as prescribed in subdivision (b), possession of a valid equivalent credential or certificate, or completion of equivalent requirements as determined by the commission.

(2) Except as provided in paragraph (3), completion of a program of beginning teacher induction, including one of the following:

(A) A program of beginning teacher support and assessment approved by the commission and the Superintendent pursuant to Section 44279.1, a provision of the Marian Bergeson Beginning Teacher Support and Assessment System.

(B) An alternative program of beginning teacher induction that is provided by one or more local educational agencies and has been approved by the commission and the Superintendent on the

basis of initial review and periodic evaluations of the program in relation to appropriate standards of credential program quality and effectiveness that have been adopted by the commission, the Superintendent, and the state board pursuant to this subdivision. The standards for alternative programs shall encourage innovation and experimentation in the continuous preparation and induction of beginning teachers. Any alternative program of beginning teacher induction that has met state standards pursuant to this subdivision may apply for state funding pursuant to Sections 44279.1 and 44279.2.

(C) An alternative program of beginning teacher induction that is sponsored by a regionally accredited college or university, in cooperation with one or more local school districts, that addresses the individual professional needs of beginning teachers and meets the commission's standards of induction. The commission shall ensure that preparation and induction programs that qualify candidates for professional credentials extend and refine each beginning teacher's professional skills in relation to the California Standards for the Teaching Profession and the standards of pupil performance adopted pursuant to Section 60605.

(3) (A) If a candidate satisfies the requirements of subdivision (b), including completion of an accredited internship program of professional preparation, and if that internship program fulfills induction standards and is approved as set forth in this subdivision, the commission shall determine that the candidate has fulfilled the requirements of paragraph (2).

(B) If an approved induction program is verified as unavailable to a beginning teacher, or if the beginning teacher is required under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) to complete subject matter coursework to be qualified for a teaching assignment, the commission shall accept completion of an approved clear credential program after completion of a baccalaureate degree at a regionally accredited institution as fulfilling the requirements of paragraph (2). The commission shall adopt regulations to implement this subparagraph.

(4) Experience that includes the application of knowledge and skills previously acquired in a preliminary credential program, in accordance with commission standards, that addresses the following:

(A) Health education, including study of nutrition, cardiopulmonary resuscitation, and the physiological and sociological effects of abuse of alcohol, narcotics, and drugs and the use of tobacco. Training in cardiopulmonary resuscitation shall also meet the standards established by the American Heart Association or the American Red Cross.

(B) Field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs.

(C) Advanced computer-based technology, including the uses of technology in educational settings.

(d) The commission shall develop and implement standards of program quality and effectiveness that provide for the areas of application listed in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (c), starting in professional preparation and continuing through induction.

(e) A credential that was issued prior to January 1, 1993, shall remain in force as long as it is valid under the laws and regulations that were in effect on the date it was issued. The commission may not, by regulation, invalidate an otherwise valid credential, unless it issues to the holder of the credential, in substitution, a new credential authorized by another provision in this chapter that is no more restrictive than the credential for which it was substituted with respect to the kind of service authorized and the grades, classes, or types of schools in which it authorizes service.

(f) A credential program that is approved by the commission may not deny an individual access to that program solely on the grounds that the individual obtained a teaching credential through completion of an internship program when that internship program has been accredited by the commission.

(g) Notwithstanding this section, persons who were performing teaching services as of January 1, 1999, pursuant to the language of this section that was in effect prior to that date, may continue to perform those services without complying with any requirements that may be added by the amendments adding this subdivision.

(h) Subparagraphs (A) and (B) of paragraph (4) of subdivision (b) do not apply to any person who, as of January 1, 1997, holds a multiple or single subject teaching credential, or to any person enrolled in a program of professional preparation for a multiple or single subject teaching credential as of January 1, 1997, who

subsequently completes that program. It is the intent of the Legislature that the requirements of subparagraphs (A) and (B) of paragraph (4) of subdivision (b) be applied only to persons who enter a program of professional preparation on or after January 1, 1997.

SEC. 10. Section 44961 of the Education Code is amended to read:

44961. In specifying or defining the rights of employees in Sections 44955 to 44961, inclusive, the effect of war refers to “war” as defined in Section 22804.

SEC. 11. Section 47623 of the Education Code is repealed.

SEC. 12. Section 47660 of the Education Code is amended to read:

47660. (a) For purposes of computing eligibility for, and entitlements to, general purpose funding and operational funding for categorical programs, the enrollment and average daily attendance of a sponsoring local educational agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b) (1) Notwithstanding subdivision (a), and commencing with the 2005–06 fiscal year, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the school district, if the school district was a basic aid school district in the prior fiscal year, or if the pupils reside in the unified school district and attended a charter school of that school district that converted to charter status on or after July 1, 2005. Only the attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

(2) Notwithstanding subdivision (a), for the 2005–06 fiscal year only, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606 and is operating them as charter schools, shall include all

attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the unified school district if the pupils attended a charter school operating in the unified school district prior to July 1, 2005. Only the attendance of pupils described by this paragraph shall be included in the calculation made pursuant to Section 42241.3. The attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

(c) Commencing with the 2005–06 fiscal year, for the attendance of pupils specified in subdivision (b), the general-purpose entitlement for a charter school that is established through the conversion of an existing public school within a unified school district on or after July 1, 2005, shall be determined using the following amount of general-purpose funding per unit of average daily attendance, in lieu of the amount calculated pursuant to subdivision (a) of Section 47633:

(1) The amount of the actual unrestricted revenues expended per unit of average daily attendance for that school in the year prior to its conversion to, and operation as, a charter school, adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for the unified school district in the year of conversion to, and operation as, a charter school.

(2) For a subsequent fiscal year, the general-purpose entitlement shall be determined based on the amount per unit of average daily attendance allocated in the prior fiscal year adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for the unified school district in that fiscal year.

(d) Commencing with the 2005–06 fiscal year, the general-purpose funding per unit of average daily attendance specified for a unified school district for purposes of paragraph (7) of subdivision (h) of Section 42238 for a school within the unified school district that converted to charter status on or after

July 1, 2005, shall be deemed to be the amount computed pursuant to subdivision (c).

(e) A unified school district that is the sponsoring local educational agency as defined in subdivision (j) of Section 47632 of a charter school that is subject to the provisions of subdivision (c) shall certify to the Superintendent the amount specified in paragraph (1) of subdivision (c) prior to the approval of the charter petition by the governing board of the school district. This amount may be based on estimates of the unrestricted revenues expended in the fiscal year prior to the school's conversion to charter status and the school's operation as a charter school, provided that the amount is recertified when the actual data becomes available.

(f) For the purposes of this section, "basic aid school district" means a school district that does not receive from the state an apportionment of state funds pursuant to subdivision (h) of Section 42238.

(g) A school district may use the existing Standardized Account Code Structure and cost allocation methods, if appropriate, for an accounting of the actual unrestricted revenues expended in support of a school pursuant to subdivision (c).

(h) For purposes of this section and Section 42241.3, "operating" means that pupils are attending, and receiving instruction at the charter school.

SEC. 13. Section 51452 of the Education Code is amended to read:

51452. The state board shall determine and adopt, based upon the recommendations of the Superintendent, the following:

(a) The means by which pupils may demonstrate mastery of the curriculum. For subject matter areas, the means may include, but shall not be limited to, any subject matter examinations deemed appropriately rigorous by the state board. For this purpose, the state board may designate examinations administered by or under the auspices of the department, or examinations produced by private providers or local educational agencies, that are supervised and administered under conditions that are deemed adequate by the state board.

(b) Pupil performance standards or achievement levels that demonstrate mastery of the curriculum.

SEC. 14. Section 52052 of the Education Code is amended to read:

52052. (a) (1) The Superintendent, with approval of the state board, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils.

(2) A school shall demonstrate comparable improvement in academic achievement as measured by the API by all numerically significant pupil subgroups at the school, including:

- (A) Ethnic subgroups.
- (B) Socioeconomically disadvantaged pupils.
- (C) English language learners.
- (D) Pupils with disabilities.

(3) (A) For purposes of this section, a numerically significant pupil subgroup is one that meets both of the following criteria:

(i) The subgroup consists of at least 50 pupils each of whom has a valid test score.

(ii) The subgroup constitutes at least 15 percent of the total population of pupils at a school who have valid test scores.

(B) If a subgroup does not constitute 15 percent of the total population of pupils at a school who have valid test scores, the subgroup may constitute a numerically significant pupil subgroup if it has at least 100 valid test scores.

(C) For a school with an API score that is based on no fewer than 11 and no more than 99 pupils with valid test scores, numerically significant subgroups shall be defined by the Superintendent, with approval by the state board.

(4) The API shall consist of a variety of indicators currently reported to the department, including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils in elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) Graduation rates for pupils in secondary schools shall be calculated for the API as follows:

(i) Four-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be three school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (ii).

(ii) The number of pupils entering grade 9 for the first time in the school year three school years prior to the current school year,

plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was three school years prior to the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was three school years prior to the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(iii) Five-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be four school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (iv).

(iv) The number of pupils entering grade 9 for the first time in the school year four years prior to the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was four school years prior to the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was four years prior to the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(v) Six-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be five school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (vi).

(vi) The number of pupils entering grade 9 for the first time in the school year five years prior to the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was five school years prior to the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was five years prior to the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(B) The inclusion of five- and six-year graduation rates for pupils in secondary schools shall meet the following requirements:

(i) Schools shall be granted one-half the credit in their API scores for graduating pupils in five years that they are granted for graduating pupils in four years.

(ii) Schools shall be granted one-quarter the credit in their API scores for graduating pupils in six years that they are granted for graduating pupils in four years.

(iii) Notwithstanding clauses (i) and (ii), schools shall be granted full credit in their API scores for graduating in five or six years a pupil with disabilities who graduates in accordance with his or her individualized education program (IEP).

(C) The pupil data collected for the API that comes from the achievement test administered pursuant to Section 60640 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group. Only the test scores of pupils who were counted as part of the enrollment in the annual data collection of the California Basic Educational Data System for the current fiscal year and who were continuously enrolled during that year may be included in the test result reports in the API score of the school. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(D) Before including high school graduation rates and attendance rates in the API, the Superintendent shall determine the extent to which the data currently are reported to the state and the accuracy of the data. Notwithstanding any other provision of law, graduation rates for pupils in dropout recovery high schools shall not be included in the API. For purposes of this subparagraph, “dropout recovery high school” means a high school in which 50 percent or more of its pupils have been designated as dropouts pursuant to the exit/withdrawal codes developed by the department.

(E) The Superintendent shall provide an annual report to the Legislature on the graduation and dropout rates in California and shall make the same report available to the public. The report shall be accompanied by the release of publicly accessible data for each school district and school in a manner that provides for disaggregation based upon socioeconomically disadvantaged pupils and numerically significant subgroups scoring below average on statewide standards-aligned assessments. In addition, the data shall

be made available in a manner that provides for comparisons of a minimum of three years of data.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The standards-based achievement tests provided for in Section 60642.5.

(2) The high school exit examination.

(c) Based on the API, the Superintendent shall develop, and the state board shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the state board pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between the actual API score of a school and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the state board may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant pupil subgroups, as defined in subdivision (a), are making comparable improvement.

(d) Upon adoption of state performance standards by the state board, the Superintendent shall recommend, and the state board shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools, at a minimum, shall meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The state board may establish additional criteria that schools must meet to be eligible for the Governor's Performance Award Program.

(e) The API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) (1) A school with 11 to 99 pupils with valid test scores shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school annually shall receive an API score, unless the Superintendent determines that an API score would be an invalid measure of the performance of the school for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the API score of the school are not representative of the pupil population at the school.

(C) Significant demographic changes in the pupil population render year-to-year comparisons of pupil performance invalid.

(D) The department discovers or receives information indicating that the integrity of the API score has been compromised.

(E) Insufficient pupil participation in the assessments included in the API.

(3) If a school has fewer than 100 pupils with valid test scores, the calculation of the API or adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be calculated over more than one annual administration of the tests administered pursuant to Section 60640 and the high school exit examination administered pursuant to Section 60851, consistent with regulations adopted by the state board.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(h) The Superintendent, with the approval of the state board, shall develop an alternative accountability system for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools pursuant to Section 56366, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools. Schools in the alternative

accountability system may receive an API score, but shall not be included in the API rankings.

SEC. 15. Section 52127 of the Education Code is amended to read:

52127. (a) As a condition to receiving an apportionment pursuant to Section 52126, school districts shall have a staff development program that requires a certificated teacher who will provide direct instructional services for a class participating in the school district's class size reduction program to receive the appropriate training necessary to maximize the educational advantages of class size reduction. This training shall include, but not be limited to, methods for providing each of the following:

- (1) Individualized instruction.
- (2) Effective teaching, including classroom management, in smaller classes.
- (3) Identifying and responding to pupil needs.
- (4) Opportunities to build on the individual strengths of pupils.

(b) School districts may use funds currently received for staff development or funds received under this chapter to meet the requirements of this section.

SEC. 16. Section 54026 of the Education Code is amended to read:

54026. For purposes of this article, the following definitions apply:

(a) "Economically disadvantaged pupils" means either of the following, whichever is applicable:

(1) Pupils described in Section 101 of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6333(c)(1)(A)(B)). Counts of the pupils described in this paragraph shall be the counts used in the current year apportionment calculations for purposes of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2) (A) Notwithstanding paragraph (1), for a small school district, the product of the number of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d), and the free meals adjustment factor. The free meals adjustment factor is the quotient, rounded to two decimal places, resulting from dividing the statewide total of economically disadvantaged pupils as defined in paragraph (1) by the statewide total of pupils eligible for participation in the free

meals program for the prior fiscal year, as defined in subdivision (d).

(B) Notwithstanding paragraph (1) or subparagraph (A), for charter schools that are funded through the block grant funding model pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 in the 2006–07 fiscal year, the department shall use counts as of October 2006 of pupils 5 to 17 years of age, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as collected through the first principal apportionment data collection process, as defined in Section 41601. Commencing in the 2007–08 fiscal year, the Superintendent shall use counts as of October of the prior year of pupils 5 to 17 years of age, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as collected through the first principal apportionment data collection process, as defined in Section 41601. For purposes of this subdivision, the department may use in the first year of operation of a charter school that is established on or after July 1, 2007, the current year counts of pupils 5 to 17 years of age, inclusive, who are living with families whose annual income is at or below the federal poverty guideline.

(C) The Superintendent may expand upon an existing process of collecting free or reduced price meal data in order to collect from small districts, as defined in subdivision (c), counts of pupils living with families whose annual income is at or below the federal poverty guideline.

(b) “English learner” means a pupil described in subdivision (a) of Section 306 or identified as a pupil of limited English proficiency, as that term is defined in subdivision (m) of Section 52163. Counts of the pupils described in this subdivision shall be the counts reported in the prior year language census.

(c) “Small school district” means a school district that has an annual enrollment of less than 600 pupils based on prior school year CBEDS data and is, for the purposes of this section, designated a rural school by the Superintendent based on the appropriate school locale codes, as used by the National Center for Education Statistics of the United States Department of Education.

(d) “Free meals” means the aggregate number of pupils meeting the income eligibility guidelines established by the federal

government for free meals as reported for all schools for which the district is the authorizing agency.

(e) For purposes of subparagraph (B) of paragraph (2) of subdivision (a), the count of economically disadvantaged pupils for a charter school that is operated pursuant to Section 47612.1 shall be calculated without regard to the age of the pupil. A pupil who resides in program housing shall be considered a family of one.

SEC. 17. Section 53892.1 of the Government Code is amended to read:

53892.1. For the purpose of permitting the compilation of the financial transactions of school districts by the Controller, the Superintendent of Public Instruction shall make available to the Controller, on an as-needed basis, data and other matters required by this article by the Controller. The Superintendent shall derive the data and other matters required for purposes of this article by the Controller from reports furnished by school districts or by county officials to the Superintendent as provided by law. No school district or county superintendent of schools shall be required to furnish separate reports to the Controller by the provisions of this article. The Superintendent shall furnish average daily attendance or enrollment data in lieu of the general population data required of counties and other municipal corporations by this article. The Superintendent shall add to the report forms furnished by him or her items or other matters as may be agreed by the Superintendent and the Controller to be needed for the purposes of this article.

Approved _____, 2009

Governor